

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

FILED

SKYLAR MARTI SCHNIPPEL

REG. NO. 73209-083

FCI HAZELTON, P.O. BOX 5000

BRUCETON MILLS, WV 26525

(Full name under which you were convicted,
prison number, place of confinement, and
full mailing address)

Petitioner,

vs.

FREDERICK ENTZEL JR.,
WARDEN, FCI HAZELTON

(Name of Warden or other authorized person
where you are incarcerated)

Respondent.

JUL 05 2022

U.S. DISTRICT COURT-WVND
CLARKSBURG, WV 26301

Petition for Habeas Corpus
Pursuant to 28 U.S.C. § 2241

Civil Action No. 3:22 cv 115

(to be assigned by Clerk)

Groh
Trumble
Sims

Important notes to read before completing this form:

- ★ Please read the entire petition **before** filling it out. Answer **only** those questions which pertain to your claim(s).

1. This petition concerns (check the appropriate box):

- ☒ a conviction
☒ a sentence
☐ jail or prison conditions
☐ prison disciplinary proceedings
☐ a parole problem
☐ other, state briefly: _____

2. Are you represented by counsel? ☐ Yes ☒ No

If you answered yes, list your counsel's name and address: _____

3. List the name and location of the court which imposed your sentence:

Eastern District of Virginia (Alexandria)

4. List the case number, if known: 1:09-cr-00072-LMB-1

5. List the nature of the offense for which the sentence was imposed:

Ct 1: Conspiracy to Distribute 500 Grams or More of Heroin, the Use of Which Resulted in Death and Serious Bodily Injury, in violation of 21 U.S.C. §§ 846, 841(a)(1) and (b)(1)(A); Ct 2: Possession with intent to Distribute Heroin Resulting in Death, in violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(C); Ct 3: Distribution of Heroin Resulting in Death, in violation of 21 U.S.C. §§ 841(a)(1) and 841(b)(1)(C); and Ct 4: Obstruction of Justice, in violation of 18 U.S.C. § 1503

6. List the date each sentence was imposed and the terms of the sentence:

07/24/2009: 240 months as to Counts 1, 2, and 3 and 120 months as to Count 4, all counts to run concurrently, for a total term of 240 months.

7. What was your plea to each count? (Check one)

- ☒ Guilty - Count 4
☒ Not Guilty - Counts 1, 2, and 3
☐ Nolo Contendere

8. If you were found guilty after a plea of not guilty, how was that finding made?

- ☐ A jury
☒ A Judge without a jury
☐ A Magistrate Judge without a jury

9. Did you appeal from the judgment of conviction or imposition of the sentence?

- ☒ Yes ☐ No

10. If you did appeal, give the following information for each appeal:

- A. Name of Court: United States Court of Appeals for the Fourth Circuit
B. Result: Affirmed
C. Date of Result: 03/25/2010
D. Grounds raised (List each one): _____

Schnippel argued that "the evidence was insufficient to show his involvement in the conspiracy and his distribution of heroin resulting in serious bodily injury and death to another" and that the 20-year mandatory minimum sentence for the drug convictions was unconstitutional.

Note: if you filed an appeal in more than one court, attach an additional sheet of paper of the same size and give all of the information requested in Question 10, A through D.

11. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions with respect to this judgment in any court, state or federal? This is called a post-conviction pleading.

- ☒ Yes ☐ No

If your answer was yes, complete the following sections:

A. First post-conviction proceeding:

1. Name of Court: Eastern District of Virginia (Alexandria)

2. Nature of Proceeding: 2255
3. Grounds Raised: Actual innocence of the offenses charged in Counts 1 and 2 under Burrage v. United States
4. Did you receive an evidentiary hearing ? ☒ Yes ☐ No
5. Result: Dismissed
6. Date of Result: 07/14/2015

B. Second post-conviction proceeding:

1. Name of Court: _____
2. Nature of Proceeding: _____
3. Grounds Raised: _____
4. Did you receive an evidentiary hearing ? ☐ Yes ☐ No
5. Result: _____
6. Date of Result: _____

C. Did you appeal to the result of the post conviction proceeding(s) to the highest court having jurisdiction?

1. First proceeding: ☐ Yes ☒ No Result: _____
2. Second proceeding: ☐ Yes ☐ No Result: _____

D. If you did not appeal the adverse result of the post-conviction proceeding(s), explain briefly why not: 2255 was time-barred

12. For your information, the following is a list of the most frequently raised grounds for relief in applications for habeas corpus pursuant to 28 U.S.C. §2241. You may raise any grounds which you may have other than those listed. However, in this application, you should raise all available grounds on which you base your petition. **Do not check** any of these listed grounds. If you select one or more of these grounds for relief, you must allege facts. **The petition will be returned to you if you merely check one or more of the grounds:**

- A. U.S. Parole Commission unlawfully revoked my parole.
- B. Federal Bureau of Prisons unlawfully computed my sentence.

- C. Federal Bureau of Prisons unlawfully denied me credit for time served in state or federal prison.
- D. Federal Bureau of Prisons or State prison system unlawfully revoked my good time credits.
- E. There is an unlawful detainer lodged against me.
- F. I am a citizen and resident of a foreign country and I am in custody for an act which I had a right to commit under the laws of my country.
- G. The act for which I was convicted is no longer considered to be a crime, and I cannot raise this issue in a §2254 petition or a §2255 motion.

CAUTION: if you fail to set forth all of the grounds in this petition at this time, you may be barred from presenting additional grounds at a later date.

State clearly every ground on which you are seeking relief. Summarize briefly the facts supporting each ground. If necessary, attach a total of five (5) typed or ten (10) neatly printed pages maximum for all grounds and all attachments.

A. Ground one:

The District Court erred in sentencing Schnippel under the death caused enhancement pursuant to U.S.S.G. § 2D1.1(a)(2).

Supporting facts: tell your story briefly without citing cases or law. You are cautioned that you must state facts, not conclusion, in support of your grounds. A “rule of thumb” to follow is this: who did exactly what to violate your rights at what time and place).

In light of *Burrage v. United States*, 134 S. Ct. 881 (2014), the District Court erred in sentencing Schnippel under the death caused enhancement pursuant to U.S.S.G. § 2D1.1(a)(2).

See Memorandum or Law in Support.

B. Ground two:

Supporting facts:

C. Ground three:

Supporting facts:

D. Ground four:

Supporting facts:

13. Were all of the above grounds presented to another court, state or federal? If not, state which grounds were not presented. If yes, state the name of the court, date of decision, and the nature of the outcome:

Yes, presented in the Eastern District of Virginia (Alexandria), Case No. 1:09-cr-00072-LMB-1, Docket No. 200, Dismissed with prejudice on 07/14/2015.

14. If this petition concerns prison disciplinary proceedings, a parole problem, computation of sentence, or other case under 28 U.S.C. § 2241, answer the following questions:

- A. Did you present the facts in relation to your present petition in the prison's internal grievance procedure?

☐ Yes ☐ No

1. If your answer to "A" above was yes, what was the result:

2. If your answer to "A" above was no, explain:

B. If you are a federal prisoner, did you present your claim to the Bureau of Prisons or other federal agency for administrative action?

☐ Yes ☐ No

1. If your answer to "B" above was yes, what was the result:

2. If your answer to "B" above was no, explain:

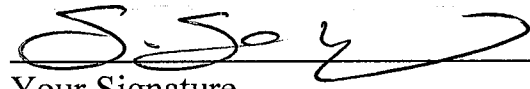
15. Relief: State here, as briefly as possible, exactly what you want the court to do for you:

1. Make **no** legal arguments.
2. Cite **no** cases or statutes.

Schnippel's sentence must be vacated for resentencing without the § 2D1.1(a)(2) enhancement. In the alternative, an evidentiary hearing should be held so that Schnippel may further prove his meritorious ground for relief, resolve any disputed facts, and expand an incomplete record.

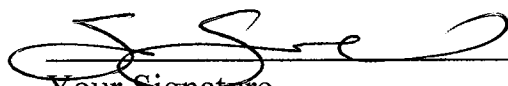
16. If a previous motion to vacate or modify a prisoner's sentence, pursuant to Section 2255, was not filed, or if such a motion was filed and denied, the reasons why Petitioner's remedy by way of Section 2255 is inadequate or ineffective to test the legality of the detention.

Signed this 29 day of JUNE, 2022.
(day) (month) (year)


Your Signature

Signature of Attorney (if any)

I declare (or certify, verify, or state), under penalty of perjury, that the foregoing is true and correct.

Date of Signature: 6/29/2022 
Your Signature